

EXHIBIT 3

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

IN RE COLLEGE ATHLETE NIL
LITIGATION

Case No. 4:20-cv-03919-CW

**DECLARATION OF WARDE J. MANUEL
IN SUPPORT OF JOINT
ADMINISTRATIVE OMNIBUS MOTION
TO SEAL**

1 I, Warde J. Manuel, declare as follows:

2 I am the Donald R. Shepherd Director of Athletics at the University of Michigan. The
3 University of Michigan is a member of The Big Ten Conference, which is a defendant in this
4 action. I make this Declaration based on my personal knowledge and investigation, and if called
5 as a witness to testify, I could and would testify competently to the following facts.

6 1. This Declaration is being made in support of the Joint Administration Omnibus
7 Motion to Seal ("Motion"), and pursuant to Civil Local Rules 7-11 and 79-5.

8 2. The University of Michigan moves to maintain the confidentiality of certain
9 portions of document filed under seal by the Parties that contain or reflect confidential personal
10 information of individual student-athletes.

11 3. Specifically, the University of Michigan requests that certain portions of the
12 Expert Reply Report of Daniel Rascher [ECF No. 290-2], as described below and as identified in
13 the Proposed Order Regarding Joint Administrative Omnibus Motion to Seal ("Proposed Order")
14 as entry numbers 787 and 790, be maintained under seal.

15 4. A party seeking to file a document under seal must "establish that a document, or
16 portions thereof, are sealable." Civil L.R. 79-5(b). In connection with a dispositive motion, a
17 designating party must demonstrate that "compelling reasons" exist to protect the information
18 from being disclosed. *Kamakana v. City & County of Honolulu*, 447 F. 3d 1172, 1178-79 (9th
19 Cir. 2006). Redactions, instead of complete removal, can be used to place "limited and clear"
20 portions of information outside the public record. *Id.* at 1183.

21 5. The University of Michigan can demonstrate that compelling reasons exist to
22 maintain the following narrowly tailored redactions under seal.

23 **CONFIDENTIAL STUDENT INFORMATION**

24 6. The Expert Reply Report of Daniel Rascher [ECF No. 290-2] contains and
25 reflects confidential personal information of the University of Michigan's student-athletes. The
26 University of Michigan is required to keep confidential student personal information, and such
27 information may not be disclosed to the public without first obtaining a release from the student
28

or parent, as FERPA (Family Educational Rights and Privacy Act, 20 U.S.C. 1232g) requires. *See Rosenfeld v. Montgomery Cnty. Pub. Sch.*, 25 F. App'x 123, 132 (4th Cir. 2001) (“[T]he district court should consider FERPA in making its determination whether sealing of the documents in question is appropriate.”).

7. Therefore, the University of Michigan supports the Parties’ Motion to redact those portions of the Expert Reply Report of Daniel Rascher [ECF No. 290-2] which contain the personal information of individual University of Michigan student-athletes, as identified below and in the Proposed Order:

Document	Entry Number	Text to be Sealed
Expert Reply Report of Daniel Rascher [ECF No. 290-2]	787	p. 17 ¶ 28
Expert Reply Report of Daniel Rascher [ECF No. 290-2]	790	p. 17 n.37

8.
The

limited redactions proposed above are narrowly tailored, and seek to seal only individual University of Michigan student-athletes’ confidential information, the public disclosure of which would harm such third-party individuals. Disclosing these redacted portions publicly is also unnecessary in this litigation, as these student-athletes’ specific identities are irrelevant to Plaintiffs’ arguments in support of class certification.

9. For the foregoing reasons, the University of Michigan respectfully submits that compelling reasons exist to seal the information as identified above and in the Proposed Order.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on September 28, 2023, in Ann Arbor, Michigan.

SL 10/12/2029


Warde J. Manuel